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MASSEY'S ADM'X *v.* SOUTHERN RY CO.

Jan. 31, 1907.

[56 S. E. 275.]

**1. Railroads—Operation—Accidents at Crossings—Evidence—Sufficiency.**—In an action against a railway company for damages for death of plaintiff's decedent in a collision at a railway crossing, evidence examined, and held, that the questions of negligence and contributory negligence were for the jury.

**2. Trial—Demurrer to Evidence.**—Where, in an action for the death of plaintiff's decedent, the facts were such that the jury would have been well justified in finding for plaintiff, it was the duty of the court to so find on a demurrer to the evidence.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 46, Trial, §§ 338-340.]

SOUTHERN RY. CO. *v.* HILL.

Jan. 31, 1907.

[56 S. E. 278.]

**Courts—Jurisdiction—Supreme Court of Appeals—Writ of Error.**—Const. art. 6, § 8, provides that, subject to reasonable rules, etc., the supreme Court of Appeals shall have appellate jurisdiction in all cases involving the constitutionality of a law, as being repugnant to the Constitution of the state or of the United States. Code of 1904, c. 140, § 2947, providing for appeals from justices' judgments to circuit and corporation courts, limits the right of appeal thereunder to cases involving the constitutionality of an ordinance or by-law of a corporation, or in which the matter in controversy, exclusive of interest, exceeds \$10 in value, and does not include cases involving the constitutionality of a law; but section 2956 declares that, when an appeal is allowed from any order or judgment of a justice, it shall be cognizable by the circuit court of the county or corporation court of the corporation in which the order or judgment is rendered, except in a case involving the constitutionality or validity of an ordinance or by-law of the corporation, in which case it shall be cognizable by the circuit court having jurisdiction over the corporation. Section 3455 provides that no petition shall be presented for an appeal from or writ of error to any judgment of a circuit or corporation court, which is rendered on appeal from the justice's judgment, unless the controversy exceeds \$300 in value, involving a freehold or franchise, or the action of the state corporation commission, or some matter not merely pecuniary. Held, that a justice's judgment involving the constitutionality of a rule of the state corporation commission, as affecting interstate commerce, was not reviewable on direct writ of error by the Supreme Court of Appeals.

Keith, P., dissenting.